
A BILL FOR AN ACT

RELATING TO FAMILY COURT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 580-10, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) When a complaint for annulment, divorce, or
4 separation[~~7~~] is filed in this State, [~~the court,~~] on an
5 application by either party, supported by affidavit or a
6 statement made under penalty of perjury, the court, without a
7 hearing, [~~may enjoin~~] shall:

8 (1) Order each of the parties to that action to timely
9 provide to the other party full financial and property
10 disclosure on forms provided by the court; and

11 (2) Order and restrain each of the parties to that action
12 from transferring, encumbering, wasting, or otherwise
13 disposing of any of their property, whether real,
14 personal, or mixed, over and above current income,
15 except as necessary for the ordinary course of a
16 business or for usual current living expenses, without
17 the consent and concurrence of the other party to such
18 action for divorce, or further specific order of the



1 court. Where [such] restraining orders are issued
2 against the other party to the action, [~~such person~~]
3 the non-filing party shall be served promptly with the
4 financial restraining order and shall be entitled to a
5 prompt hearing to show cause why [such] the order
6 should not be enforced."

7 SECTION 2. Section 580-47, Hawaii Revised Statutes, is
8 amended as follows:

9 1. By amending subsection (a) to read:

10 "(a) Upon granting a divorce, or thereafter if, in
11 addition to the powers granted in subsections (c) and (d),
12 jurisdiction of those matters is reserved under the decree by
13 agreement of both parties or by order of court after finding
14 that good cause exists, the court may make any further orders as
15 shall appear just and equitable (1) compelling the parties or
16 either of them to provide for the support, maintenance, and
17 education of the children of the parties; (2) compelling either
18 party to provide for the support and maintenance of the other
19 party; (3) finally dividing and distributing the estate of the
20 parties, real, personal, or mixed, whether community, joint, or
21 separate; and (4) allocating, as between the parties, the
22 responsibility for the payment of the debts of the parties



1 whether community, joint, or separate, and the attorney's fees,
2 costs, and expenses incurred by each party by reason of the
3 divorce.

4 In making these further orders, the court shall take into
5 consideration: the respective merits of the parties, the
6 relative abilities of the parties, the condition in which each
7 party will be left by the divorce, the burdens imposed upon
8 either party for the benefit of the children of the parties, the
9 unauthorized dissipation, if any, of the marital estate by
10 either party, and all other circumstances of the case.

11 In establishing the amounts of child support, the court
12 shall use the guidelines established under section 576D-7.
13 Provision may be made for the support, maintenance, and
14 education of an adult or minor child and for the support,
15 maintenance, and education of an incompetent adult child whether
16 or not the petition is made before or after the child has
17 attained the age of majority. In those cases where child
18 support payments are to continue due to the adult child's
19 pursuance of education, the agency, three months prior to the
20 adult child's nineteenth birthday, shall send notice by regular
21 mail to the adult child and the custodial parent that
22 prospective child support will be suspended unless proof is



1 provided by the custodial parent or adult child to the child
2 support enforcement agency, prior to the child's nineteenth
3 birthday, that the child is presently enrolled as a full-time
4 student in school or has been accepted into and plans to attend
5 as a full-time student for the next semester a post-high school
6 university, college, or vocational school. If the custodial
7 parent or adult child fails to do so, prospective child support
8 payments may be automatically suspended by the child support
9 enforcement agency, hearings officer, or court upon the child
10 reaching the age of nineteen years. In addition, if applicable,
11 the agency, hearings officer, or court may issue an order
12 terminating existing assignments against the responsible
13 parent's income and income assignment orders.

14 In addition to any other relevant factors considered, the
15 court, in ordering spousal support and maintenance, shall
16 consider the following factors:

- 17 (1) Financial resources of the parties;
- 18 (2) Ability of the party seeking support and maintenance
19 to meet his or her needs independently;
- 20 (3) Duration of the marriage;
- 21 (4) Standard of living established during the marriage;
- 22 (5) Age of the parties;



- 1 (6) Physical and emotional condition of the parties;
- 2 (7) Usual occupation of the parties during the marriage;
- 3 (8) Vocational skills and employability of the party
- 4 seeking support and maintenance;
- 5 (9) Needs of the parties;
- 6 (10) Custodial and child support responsibilities;
- 7 (11) Ability of the party from whom support and maintenance
- 8 is sought to meet his or her own needs while meeting
- 9 the needs of the party seeking support and
- 10 maintenance;
- 11 (12) Other factors which measure the financial condition in
- 12 which the parties will be left as the result of the
- 13 action under which the determination of maintenance is
- 14 made; and
- 15 (13) Probable duration of the need of the party seeking
- 16 support and maintenance.

17 The court may order support and maintenance to a party for

18 an indefinite period or until further order of the court;

19 provided that in the event the court determines that support and

20 maintenance shall be ordered for a specific duration wholly or

21 partly based on competent evidence as to the amount of time

22 which will be required for the party seeking support and



1 maintenance to secure adequate training, education, skills, or
2 other qualifications necessary to qualify for appropriate
3 employment, whether intended to qualify the party for a new
4 occupation, update or expand existing qualification, or
5 otherwise enable or enhance the employability of the party, the
6 court shall order support and maintenance for a period
7 sufficient to allow completion of the training, education,
8 skills, or other activity, and shall allow, in addition,
9 sufficient time for the party to secure appropriate employment."

10 2. By amending subsection (f) to read:

11 "(f) Attorney's fees and costs. The court hearing any
12 motion for orders either revising an order for the custody,
13 support, maintenance, and education of the children of the
14 parties, or an order for the support and maintenance of one
15 party by the other, or a motion for an order to enforce any such
16 order or any order made under subsection (a) of this section,
17 may make such orders requiring either party to pay or contribute
18 to the payment of the attorney's fees, costs, and expenses of
19 the other party relating to such motion and hearing as shall
20 appear just and equitable after consideration of the respective
21 merits of the parties, the relative abilities of the parties,
22 the economic condition of each party at the time of the hearing,



1 the burdens imposed upon either party for the benefit of the
2 children of the parties, the unauthorized dissipation, if any,
3 of the marital estate by either party, and all other
4 circumstances of the case."

5 SECTION 3. This Act does not affect rights and duties that
6 matured, penalties that were incurred, and proceedings that were
7 begun before its effective date.

8 SECTION 4. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 5. This Act shall take effect on July 1, 2051.



Report Title:

Family Court; Divorce; Restraining Order

Description:

Authorizes family court to issue financial restraining orders, and consider the unauthorized dissipation of marital assets in ordering payment of attorney fees and costs. Effective July 1, 2051. (SD2)

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